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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 CP III VUE, LLC,
12 Plaintiff,
13 v.
14 JEFFERY SIMPSON, et al.,
15 Defendants.
16

Case No. CV 18-03323-R (RAOx)

**ORDER REMANDING ACTION
AND DENYING APPLICATION TO
PROCEED WITHOUT PREPAYING
FEES OR COSTS**

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18 **I.**

19 **FACTUAL BACKGROUND**

20 Plaintiff CP III Vue, LLC ("Plaintiff") filed an unlawful detainer action in
21 Los Angeles County Superior Court against Defendants Jeffery Simpson and Does
22 1 to 10 ("Defendants"), on or about February 28, 2018. Notice of Removal
23 ("Removal") and Attached Complaint ("Compl."), Dkt. No. 1. Defendants are
24 allegedly tenants of real property located in San Pedro, California ("the property").
25 Compl. ¶¶ 3, 6. Plaintiff is the owner of the property. *Id.* at ¶¶ 2, 4. Plaintiff filed
26 the unlawful detainer action demanding that Defendants quit and deliver up
27 possession of the property. *Id.* at ¶ 7. Plaintiff also seeks monetary damages. *Id.*
28 at ¶¶ 11, 17.

1 Defendant Simpson filed a Notice of Removal on April 20, 2018, invoking
2 the Court's federal question jurisdiction. Removal at 2. Defendant Simpson also
3 filed an Application to Proceed Without Prepaying Fees or Costs. Dkt. No. 3.

4 II.

5 DISCUSSION

6 Federal courts are courts of limited jurisdiction, having subject matter
7 jurisdiction only over matters authorized by the Constitution and statute. *See, e.g.,*
8 *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377, 114 S. Ct. 1673, 128 L. Ed.
9 2d 391 (1994). It is this Court's duty always to examine its own subject matter
10 jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514, 126 S. Ct. 1235, 163 L.
11 Ed. 2d 1097 (2006), and the Court may remand a case summarily if there is an
12 obvious jurisdictional issue. *Cf. Scholastic Entm't, Inc. v. Fox Entm't Grp., Inc.*,
13 336 F.3d 982, 985 (9th Cir. 2003) ("While a party is entitled to notice and an
14 opportunity to respond when a court contemplates dismissing a claim on the merits,
15 it is not so when the dismissal is for lack of subject matter jurisdiction.") (omitting
16 internal citations). A defendant attempting to remove an action from state to
17 federal court bears the burden of proving that jurisdiction exists. *See Scott v.*
18 *Breeland*, 792 F.2d 925, 927 (9th Cir. 1986). Further, a "strong presumption"
19 against removal jurisdiction exists. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th
20 Cir. 1992).

21 Defendant Simpson asserts that this Court has subject matter jurisdiction
22 pursuant to 28 U.S.C. §§ 1331 and 1441. Removal at 2. Section 1441 provides, in
23 relevant part, that a defendant may remove to federal court a civil action in state
24 court of which the federal court has original jurisdiction. *See* 28 U.S.C. § 1441(a).
25 Section 1331 provides that federal "district courts shall have original jurisdiction of
26 all civil actions arising under the Constitution, laws, or treaties of the United
27 States." *See id.* § 1331.

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1 Here, the Court's review of the Notice of Removal and attached Complaint
2 makes clear that this Court does not have federal question jurisdiction over the
3 instant matter under 28 U.S.C. § 1331. First, there is no federal question apparent
4 from the face of the Complaint, which appears to allege only a simple unlawful
5 detainer cause of action. *See Wescom Credit Union v. Dudley*, No. CV 10-8203
6 GAF (SSx), 2010 WL 4916578, at *2 (C.D.Cal. Nov. 22, 2010) ("An unlawful
7 detainer action does not arise under federal law.") (citation omitted); *IndyMac*
8 *Federal Bank, F.S.B. v. Ocampo*, No. EDCV 09-2337-PA(DTBx), 2010 WL
9 234828, at *2 (C.D.Cal. Jan. 13, 2010) (remanding an action to state court for lack
10 of subject matter jurisdiction where plaintiff's complaint contained only an
11 unlawful detainer claim).

12 Second, there is no merit to Defendant Simpson's contention that federal
13 question jurisdiction exists based on the Protecting Tenants at Foreclosure Act of
14 2009 ("PTFA"). Removal at 2. The PTFA does not create a private right of action;
15 rather, it provides a defense to state law unlawful detainer actions. *See Logan v.*
16 *U.S. Bank Nat. Ass'n*, 722 F.3d 1163, 1164 (9th Cir. 2013) (affirming dismissal of
17 the complaint because the PTFA "does not create a private right of action allowing
18 [plaintiff] to enforce its requirements"). It is well settled that a "case may not be
19 removed to federal court on the basis of a federal defense . . . even if the defense is
20 anticipated in the plaintiff's complaint, and even if both parties concede that the
21 federal defense is the only question truly at issue." *Caterpillar Inc. v. Williams*,
22 482 U.S. 386, 393, 107 S. Ct. 2425, 2430, 96 L. Ed. 318 (1987). Thus, to the extent
23 Defendant's defenses to the unlawful detainer action are based on alleged violations
24 of federal law, those defenses do not provide a basis for federal question
25 jurisdiction. *See id.* Because Plaintiff's complaint does not present a federal
26 question, either on its face or as artfully pled, the court lacks jurisdiction under 28
27 U.S.C. § 1331.

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III.
CONCLUSION

Accordingly, IT IS ORDERED that this case is REMANDED to the Superior Court of California, County of Los Angeles, forthwith.

IT IS FURTHER ORDERED that Defendant's Application to Proceed Without Prepaying Fees or Costs is DENIED as moot.

IT IS SO ORDERED.

DATED: 4-30-18



MANUEL L. REAL
UNITED STATES DISTRICT JUDGE